

**BIGFORK LAND USE ADVISORY COMMITTEE**  
**Approved Minutes for May 31, 2018**  
**4:00 PM Bethany Lutheran Church – Downstairs Meeting Room**

Chairwoman Susan Johnson called the meeting to order at 4:00 p.m.

**Present:** Committee member attendees: Susan Johnson, Jerry Sorensen, Tim Kittle, Chany Ockert and Joyce Mitchell; absent were Lou McGuire and Shelley Gonzales. Public: Four members; Flathead Planning and Zoning: Erik Mack.

The agenda was approved (m/s, J. Mitchell/J. Sorensen), unanimous.

Minutes of the March 29, 2018 meeting were approved (m/s, J. Sorensen, T. Kittle), unanimous.

**Administrator's Report and Announcements:**

Sign-in sheet passed around. Planning and Zoning website announced for all documents regarding minutes, agendas, and applications. Website: [flathead.mt.gov/planning-zoning/documents](http://flathead.mt.gov/planning-zoning/documents).

**Public Comment:**

Mr. Walter Kuhn wanted to clear up mis-information based on some theoretical comments he made which developed into a rumor regarding the recent March application FZC-18-03 for the parking lot on Grand Ave in Bigfork. First, he wanted to say that he has always been transparent regarding the parking lot. He was told that the parking lot could not be designated as a lot for the Performing Arts since it was not directly connected to the Performing Arts building, therefore, it is a stand-alone parking lot which is allowed under B-3. There was no deception when developing the application. A comment he made during a public meeting on the site made it sound like a developer wanted to put a parking structure on the site. That is not correct. The parking lot will be a 2 level, terraced surface lot.

There currently is no developer with plans to develop the parking lot. However, he would entertain discussions if a developer wanted to develop a lot that would guarantee 70-75 spaces and would pay all costs of development. Walter estimated that just the cost to develop a parking structure with lights, signage, etc. would be at least \$250K.

Another comment received was that the zone change may result in "creeping" real estate development in the surrounding area. Walter said that anytime there is a zone change on property, it's possible that creeping could occur in surrounding areas.

Lastly, there is a building with two businesses located on the lots for the future parking lot. The businesses will be re-located and the building will be torn down.

**Application:**

FZC-18-10 Swan Properties LLC/Gary Whalen. A zone change request by Dale Whalen, -

Bigfork, MT within the Bigfork Zoning District. The proposal would change the zoning on a parcel containing approximately 1.414 acres from CCC-1 (Commercial Country Corner-Class 1) to B-2 (General Business). The property can legally be described as a tract of land in the Northeast Quarter of the Northeast Quarter (NE1/4NE1/4) of Section 20, Township 27 North, Range 19 West, P.M.M., Flathead County, Montana. Tract 1 of Certificate of Survey No. 11319.

### **Staff Report:**

Erik Mack of Planning and Zoning Department (P&Z) presented the application. Erik referred to page 3 of the staff report and indicated that the change in zoning from CCC-1 to B-2 would be compatible with surrounding property and would only increase the B-2 surrounding area by 1.4 acres.

Agency referral were sent out to several agencies with five (5) returned. There were no concerns with by the majority of the agency replies. However, the Montana Department of Transportation (MDT) indicated any new access or changes to the use of the existing access to and from Hwy 83 or Swan River Road would require an "approach permit" to be approved by the MDT.

The differences in CCC-1 and B-2 are the number of permitted uses and conditional uses. The number of permitted uses in B-2 is 34 vs. 12 in CCC-1 and conditional uses in B-2 is 13 vs. 2 in CCC-1.

Q. Johnson: The question was asked of Erik about a letter from P&Z, planner Kari Nielsen, dated March 23, 2017, to Mr. Whalen regarding the CCC-1 zoning designation where she indicated to Mr. Whalen that the "requested use in purpose, function, character, and effect as to be substantially similar to said listed use" in CCC-1. P&Z did not communicate this approval to Bigfork Land Use Advisory Committee (BLUAC). There was a question as to what is P&Z criteria for making this decision without going through BLUAC? Erik was not involved at that time. Since it was done by another P&Z Planner, he suggested that we contact Mr. Mussman, Director of P&Z for more information.

Q. Sorensen: Asked the applicant what has changed since March of 2017 to now where BLUAC is looking at the application for a zone change from CCC-1 to B-2? Applicant: Mr. Gary Whalen, said that the additional uses allowed under B-2 are the main reason. In the future, they would like to offer boat storage which is not allowed under CCC-1.

Mitchell clarified that B-2 allows for retail sales and services and boat storage. In addition, the applicant will still need to request a conditional use permit (CUP) to be able to provide boat storage on the property. Applicant replied yes. He will apply for a CUP in the future.

### **Applicant Report:**

Q. Johnson: Have the fuel tanks from the gas station been completely removed from the property? Applicant: No, we plan on having this completed by the end of 2018.

Q. Johnson: Does the owner have plans in the future of dividing the parcel? Applicant: No.

Q. Johnson: Is there currently a garage on the property for repairing motor vehicles?  
Applicant: There is a building on the property. The size is approximately 40' x 60' and the office space is 35' x 35'. The non-office space is used for working on the owner's own vehicles. He does not see using it for repairs for other people.

Q. Johnson: Is there a plan for signage? Applicant: Yes. There was an existing sign used by the old gas station. Using the existing sign, they changed the wording to fit their business. It is the same size as the old sign. Eric mentioned they would be "grandfathered" in because of the existing signage.

Q. Ockert: Would you be renting equipment for winter activities? Applicant: We would like to offer winter rental equipment.

Q. Mitchell: If you store boats, will there be a restriction on the size since the parcel is not that large? Applicant: They would limit boat size to 24 ft. When moving or turning the boats, there is enough turning radius within the property so they would not need to use any of the road surface area on Swan River Road or Hwy 83.

Q. Kittle: How long have you owned the property? Applicant: Since 2015.

Q. Sorensen: How will the County know if the applicant is complying with the MDT requirement of an "access permit"? Erik indicated this will be revisited again when the Applicant applies for a Conditional Use Permit (CUP) in the future.

Q. Kittle: If you store boats, what is to prevent them from being strewn all over the parcel?  
Applicant: Currently, the only boats stored are our own. If they were to store boats in the future, they would be bubble wrapped and may eventually be stored in the building.

Q. Sorenson: Are you offering any fuel? Applicant: We only have fuel for our own use.

Q. Ockert: Asked Erik how many days before the BLUAC meeting is needed for the notification period. Erik responded 18 days. The media used for residents of the Bigfork Zoning district is the Daily Interlake.

Q. Johnson: How many access points to the property? Applicant: Two access points from Hwy 83 and one from Swan River Road. The old gas station used the Swan River Road access.

Q. Johnson: Where is the drain field and septic system located and will vehicles be driving over them? Applicant: The drain field and septic system are located behind the building and no traffic will be driving over them.

Q: Ockert: Will you have a washing station for the boats to clean invasive species. Applicant: We do not plan on a washing station since the state has inspection stations that check boats.

No further questions regarding the application.

Finding of Facts: Motion to approve. (m/s, Sorensen/Mitchell), no further discussion, unanimous to approve Findings of Fact.

Request motion to endorse or deny application. (m/s, Mitchell/Sorensen), no further discussion, unanimous to recommend approval of the zone change under FZC-18-10.

Application closed.

### **Old Business:**

BLUAC Secretary position:

Mitchell suggested that we post the position at the Bigfork Chamber of Commerce along with a brief description of the requirements. Maybe the Chamber's would also post in their e-newsletter.

Ockert said the Bigfork School was asked if they would have any students who would be interested in the position, however they do not have a program developed for students who may be interested. We will check again with them in the Fall.

Ockert will send Johnson a contact at FVCC to discuss the position and see if there are any interested students who would provide secretary support as part of an internship program in the Fall. It would be a good way for them to learn about politics at the grass roots level.

Johnson will e-mail secretary position description to the committee members.

### **New Business:**

Appointment of Member at Large: (m/s, Sorensen made a motion to appoint Mitchell for the one year position of Member at Large, (m/s, Sorensen/Kittle), no discussion, unanimous.

A motion was made to appoint Ockert to fill the last two years of Mitchell's position, (m/s, Mitchell/Sorensen), no discussion, unanimous.

Election of Officers, (m/s, Mitchell/Sorensen to elect Johnson as Chairperson for one year, unanimous. (m/s, Mitchell/Kittle), to elect Sorensen as Vice Chairperson), unanimous.

Since not all BLUAC members are in the Bigfork area during the winter months, the committee will explore participation in meetings via conference call, Skype, Facetime, etc. Johnson and McGuire will gather additional information and draft wording for an amendment to be added to the Bigfork Land Use Advisory Committee By-laws, (By-laws). Wording will be sent to P&Z and the County Attorney, Tara Fugina for their input before proceeding further. A question was

asked regarding the strength of the internet connection at the church. The church internet may not be strong enough for conference calls, etc. This will need to be discussed further. The committee feels fortunate to be able to use the church for BLUAC meetings.

Ockert brought up a concern about whether the people representing the applicants are authorized to speak on behalf of the applicants. She suggested the By-laws be amended to add language regarding representor(s) on applications. Mitchell noted that the committee relies on the application as presented to us by P&Z. Sorensen suggested the person should announce they are speaking on behalf of the applicant. After some discussion, the BLUAC members decided it was not necessary to change the By-laws since there were other "safe guards" in the application process that would prevent unauthorized people to represent applicants.

New BLUAC members must attend a training class regarding conduct and requirements regarding County zoning. The training is conducted by the County Attorney once per year, usually in February. Kittle, Ockert and Sorensen were not notified of the last training session. Johnson will ask the County Attorney, Tara Fugina, about the process of notification.

Application FZC-18-10, Swan Properties LLC will appear before the Planning Board on June 13, 2018 at the South Campus.

**Adjourn:**

The meeting was adjourned at 5:55 p.m.

Respectfully submitted,

Susan Johnson, acting secretary